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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Petition for Rulemaking to Amend)
the Commission's Part 68 Rules)
to Authorize Regulated Carriers)
to Provide Certain Line Build Out)
Functionality as Part of Regulated)
Network Equipment on Customer Premises)

RM-8158

REPLY COMMENTS OF THE INDEPENDENT DATA
COMMUNICATIONS MANUFACTURERS ASSOCIATION

The Independent Data Communications Manufacturers Association ("IDCMA"), by its attorneys, hereby replies to the comments that were filed in response to the petition for rulemaking of Verilink Corporation ("Verilink") on February 8, 1993.¹ IDCMA's opposition pointed out that Verilink had failed to meet the Commission's requirements for the initiation of a rulemaking proceeding to authorize carriers to provide transmission path line build-out ("LBO") functionality, which is currently supplied by competitively-provided network channel terminating equipment ("NCTE"), through customer-premises devices provided as part of the monopoly network.² Other parties filed comments in support

1/ See Petition for Rulemaking of Verilink Corporation (filed Dec. 14, 1992) [hereinafter "Verilink Petition"]; FCC Public Notice, Mimeo 31270 (Jan. 8, 1993).

2/ See Opposition of the Independent Data Communications Manufacturers Association, RM-8158, at 4-8 (filed Feb. 8, 1993) [hereinafter "IDCMA Opposition"].

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of Verilink's petition, but they failed to remedy these fatal deficiencies. The Commission should therefore reject Verilink's petition and decline to initiate a rulemaking proceeding.

All but one of Verilink's supporters are local exchange carriers ("LECs"). This is not surprising. The LECs have consistently supported the bundling of LBO functionalities -- as well as other customer-premises equipment ("CPE") functionalities -- into monopoly network services.

What the carriers have not done is to provide detailed evidence of the "problems" that allegedly result from customer control of the LBO setting via CPE. After all, the carriers are the entities charged with communicating the proper one of three LBO settings in the CPE to the customer and thus are in a position to be uniquely aware of such "problems." Yet, none of the carriers has provided any specific evidence to bolster Verilink's allegations. Instead, they have submitted conclusory statements to the effect that migration of LBO functionalities to the network would eliminate customer confusion and possibly save money. And, where Verilink has provided specific, but unsubstantiated, figures in support of its claims, e.g., the alleged \$3-to-\$7 cost savings estimate per customer upon migration of the LBO

functionalities from the CPE to the network, the carriers have carefully avoided endorsing the figures.

Indeed, a number of the carriers have explicitly (if inadvertently) disproved or disputed assertions made by Verilink. Several carriers, for example, have admitted that the so-called "joint engineering" that Verilink claims is a such problem merely involves the carrier's communication of the appropriate LBO attenuation setting to the customer.³ Moreover, BellSouth has acknowledged that approval of Verilink's proposal would not, in any event, eliminate the need for such "joint engineering," at least for an interim period. Even though only one LBO setting would be required under Verilink's proposal in newly registered equipment, the carriers would have to continue to ensure that customers using CPE with three LBO settings adjust the equipment to the proper setting.⁴ To do so, the carrier would have to inform the customer to set the CPE to 0 dB. Thus, the "burden" of communications between the carrier and the customer would not be eliminated.

Bell Atlantic specifically disputes Verilink's claims that there would be cost savings to the network if

3/ See Comments of BellSouth Telecommunications, Inc., RM-8158, at 2-3 (filed Feb. 8, 1993) [hereinafter "BellSouth Comments"]; Comments of the NYNEX Telephone Companies, RM-8158, at 2 (filed Feb. 8, 1993).

4/ BellSouth Comments at 5.

migration were to occur. In particular, Bell Atlantic notes that LBO functionalities that were previously incorporated in network interface devices have been "disabled or removed."⁵ Bell Atlantic further notes that "[t]he costs of re-installing the LBO function will likely offset any administrative savings."⁶ Several carriers likewise minimize Verilink's claims that customers will experience cost savings upon migration of LBO functionalities to the network.⁷ Rather, they observe that customers should not experience increases in the cost of CPE as a result of migration. These comments hardly provide the justification necessary for reexamining the Commission's successful CPE policies.

A number of the comments filed in support of Verilink's petition are misleading -- perhaps unintentionally -- in several respects. Like Verilink, the commenters have argued that the Commission's rules should be designed around and in conformance with voluntary technical standards rather than vice versa.⁸ IDCMA demonstrated in

^{5/} Comments of Bell Atlantic, RM-8158, at 3 (filed Feb 8, 1993).

^{6/} Id.

^{7/} See, e.g., BellSouth Comments at 5-6; Comments of Southwestern Bell Telephone Company, RM-8158, at 5-6 (filed Feb. 8, 1993).

^{8/} See, e.g., BellSouth Comments at 7-9; Comments of Integrated Network Corporation, RM-8158, at 4 (filed (Footnote 8 continued on next page.)

its opposition to Verilink's petition that this argument misconceives the Commission's principal policymaking role.⁹ But even if these claims were legitimate, the commenters -- like Verilink -- have failed to recognize that the standard in question, American National Standards Institute ("ANSI") Standard T1.403, is in the process of being revised in part to bring it into compliance with the Commission's CPE rules regarding the provision of LBO functionality. Any discrepancy between the Commission's rules and ANSI Standard T1.403 will thereby be eliminated. In addition, despite claims to the contrary, no specific evidence has been presented to support the suggestion that migration of the LBO functionality to the network will increase network innovation or speed the deployment of new technologies.¹⁰

It is difficult to imagine supporting pleadings that are any more conclusory than those filed in support of Verilink's petition. The heart of the case remains the same: is the simple requirement that a carrier tell a customer which of three CPE LBO settings to use such an immensely complicated task that the Commission should carve out an exception from the longstanding rule that CPE must be

(Footnote 8 continued from previous page.)
Feb. 8, 1993) [hereinafter "Integrated Network Comments"].

9/ See IDCMA Opposition at 11-12.


10/ See Integrated Network Comments at 5-7.

provided on an unbundled and detariffed basis? The Commission has already expressed a disinclination to consider this question in the absence of concrete information. The tenuous expressions of support from the carriers do not justify revisiting this policy.

For the reasons set forth above, IDCMA urges the Commission to reject Verilink's petition for rulemaking and decline to initiate a rulemaking proceeding.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, geneather Lloyd, hereby certify that copies of the foregoing Reply Comments of the Independent Data Communications Manufacturers Association were served by hand or by First-Class United States mail, postage prepaid, upon the parties appearing on the attached service list this 23rd day of February, 1993.


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